(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

SECOND APPEAL NO. 115 OF 2003

APPELLANTS DEFENDANTS : 1. Rajendra, son of Manuwa, aged about 42 years.

: 2. Rajkumar, son of Manuwa, aged about 32 years.

: 3. Chataunheen, widow of late Manuwa, aged about 62 years, Caste- Sanwra, Occupation- Agriculturist, resident of Balpur, Tehsil-Dabhra, District-Janjgir-Champa, (C.G.)

P. R. No. 1144/03 Presented by Shri Miss. Vibha Sharma dated 19.02.03

V E R S U S

RESPONDENTS PLAINTIFFS : 1. Prembai, widow of late Balmukund Caste-Kalar, aged about 67 years, resident of Balpur, Tehsil-Dabhra, District-Janjgir-Champa, (C.G.) Through Aam Mukhtiyar Suklal son of Bhagat Ram, Kalar, aged about 42 years, Occupation- Agriculturist, resident of Balpur, Tehsil-Dabhra, District-Janjgir-Champa, (C.G.)

: 2. State of Chhattisgarh, through Collector, Janjgir-Champa, District-Janjgir-Champa, (C.G.)

RECEIVED COPY, 18/2/03 CLERK TO A.G. BILASPUR

MEMORANDUM OF SECOND APPEAL UNDER SECTION 100 OF CODE OF CIVIL PROCEDURE.

(UB)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक S.A.No.115/2003 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	07.09.2005 Shri HS Patel, counselfor the appellants. None for respondent No.1 Shri JD Bajpai, Government Advocate for the State / respondent No.2. Heard on admission and M(C.)P.No.961/2005. The plaintiff/respondent No.1 filed a civil suit for declaration of title, restoration of possession of the suit land bearing Khasra No.450, measuring 0.45 acres and mesne profits against the defendants / appellants. The suit was filed on the ground that the suit land has been purchased by the plaintiff and her husband on 24.02.1971 from the owner of the land, Rajkumar. After purchasing the land, they got their names recorded in the revenue records and since then they were continuing possession over it. Revenue records have been corrected on 24/02/1989 after the death of Balmukund, in favour of the plaintiff and thereafter plaintiff alone was in possession of the suit land. Defendants 1 to 3 denied the claim of plaintiff and also filed counter claim for declaration of title and affirming their possession averring that the father of defendants 1 & 2 and husband of defendant 3 - Manua purchased the suit land on	

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

06.04.1972 from Rajkumar and was in possession of the suit land till his death. After the death of Manua, defendants 1 to 3 being legal heirs of Manua came into possession of the suit land and are continuing possession over the suit land. The name of Manua was recorded in revenue papers, during his life time.

Learned trial Court vide judgment and decree dated 23.11.2000 passed in civil suit No.86-A/99 dismissed the suit filed by the plaintiff and recording adverse possession, declared title and possession in favour of defendants 1 to 3. The said judgment has been challenged in the Civil Appeal No.74-A/2000 by the plaintiff. Learned First appellate Court after due appreciation of the evidence available on record, held that the sale deed in favour of the plaintiff regarding suit land has been duly proved by the evidence. Entries in Khosra - "Panchshala" in favour of defendants 1 to 3 were incorrect, therefore, the entries have been corrected by the revenue authorities and from the evidence on record, it was proved that the plaintiff was in possession over the suit land, who in the year 1999 has been dis-possessed. Neither any pleading has been raised regarding adverse possession nor the same has been proved. The suit filed by the plaintiff was not barred by limitation, therefore, learned First

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Appellate Court vide judgment and decree dated 20.01.2003 set aside the judgment and decree passed by the lower Court on 23.11.2000 in favour of defendants 1 to 3 and instead decreed the suit for title, possession and mesne profits in favour of the plaintiff. Being aggrieved by the judgment and decree passed by the First Appellate Court, this Second Appeal has been filed by defendants 1 to 3.

Admittedly, no pleading of adverse possession has been raised by defendants 1 to 3. It is evident that the First Appellate Court, by due appreciation of evidence has held that the sale deed executed in favour of the plaintiff has been proved. The Court further held that the entries in favour of defendants No. 1 to 3 made in revenue records are incorrect. The Court also held that the plaintiff was in continuous possession of the suit land and was dis-possessed in the year 1999. It is also apparent that the suit has been filed on 15.07.1999.

The appellant failed to show how learned First Appellate Court ignored material evidence or mis-interpreted any evidence. Taking into consideration all the facts and findings of the First Appellate Court, arguments advanced by the parties, I am of the opinion that

(पीछे देखिये)

(51)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -५-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
padma	this second appeal does not contain any substantial question of law. Therefore, it is liable to be dismissed and is accordingly dismissed. In the light of above order, M.(C.)P.No.961/2005 & IA No.1837/2003 stand disposed of.	Sd/- V.K.Shrivastava Judge

YOGENDRA SINGH KANWAR
Digitally signed by YOGENDRA SINGH KANWAR
Date: 2025.04.28 14:55:42 +0530